



CARDINAL McCLOSKEY COMMUNITY CHARTER SCHOOL

NYS Open Meetings Law

The Board of Trustees of the Cardinal McCloskey Community Charter School operates in compliance with the New York State Open Meetings Law (“OML”).

Key Requirements of OML:

1. CMCCS is required to be publicized when and where meetings of the board of trustees (and its committees and subcommittees) will take place;
2. CMCCS is required to provide information about what will be discussed before the meetings take place;
3. Meetings shall be held in a space accessible to the public; and,
4. A record of the decisions made at each meeting shall be created (i.e. minutes).

1. Publicly announce meetings:

- Meetings shall be scheduled at least a week in advance and notice must be given no fewer than 72 hours prior to such meeting.
- Notice of the meeting shall provide date, time and location of meeting. notice should specify each location from which board members will be participating and should indicate that the public can attend the meeting at that location. If a location changes after the regular notice has come out, the CMCCS shall post and send to the media a new notice providing the new information on the added or changed location to the extent practicable.
- Notice shall be given to the news media; A reasonableness standard applies for notice. An email list of the major TV and newspaper outlets as well as local community papers in their area shall be maintained to notify the media.
- Notice shall be conspicuously posted in one or more designated public locations; and
- Notice shall be conspicuously posted on the school’s website (if it maintains one and is practicable and able to do so).
- If a meeting is scheduled less than a week in advance, notice shall be given “to the extent practicable” at a “reasonable time prior” to the meeting. OML §104
- If board meetings are held in the same place and at the same time on a consistent basis, it is acceptable to post a yearly schedule at the beginning of the year without having to provide notice again every time an individual meeting occurs. However, if the schedule changes, a new notification shall be provided.

2. Provide material prior to meetings or at meetings:

- CMCCS shall provide “to the extent practicable” any proposed resolution or policy of the school that is scheduled to be a subject of discussion at the board meeting. Materials shall be posted on the CMCCS website prior to the meeting.
- Documents, resolutions or policies that are subject to the Freedom of Information Law (FOIL) shall be made available.
- The actual cost for making paper copies available (either before or at the meeting) as permitted in fulfilling any FOIL request shall be paid by the person making the request.

3. Meeting spaces:

- Meetings shall be held at the School in an accessible place to the public.
- CMCCS shall make all reasonable efforts to ensure that meetings are held in a space where the members of the general public are adequately accommodated.
- CMCCS shall make reasonable efforts to permit persons with disabilities to have barrier free access to meetings at its facilities.

4. Meeting minutes:

- CMCCS shall make a record of summary or all motions, proposals, resolutions, actions taken, and the votes of the members of the board.
- Minutes shall be made available upon request within two weeks of the meeting.
- Minutes shall be prepared and made available upon request within two weeks of the meeting. Executive session minutes are to be made available within one-week of the session. Please Note: the board does *not* have to approve the minutes prior to them being made available to the public; a board can still choose to approve the minutes at the following board meeting, but they must still be made available within the 2-week time frame. Prior to approval of the minutes, they shall be stamped “draft” when they are requested prior to their board approval.
- Minutes of executive session need only record the actions taken by formal vote and shall consist of a record or summary of the final determination of such action and the date and vote thereon.
- Minutes are not required to be posted.

5. Subcommittees:

A committee or subcommittee made up of board members as part of its membership falls within the definition of “public body” under the OML and has the same responsibility to comply as the board itself.

6. Quorum:

A quorum is defined as a majority of the total membership of the board, regardless of whether there are vacancies or absences. For instance, five will always be the quorum for a nine-person board, as CMCCS currently exists, even if there are only seven or eight active members at a

particular time. This means that a board that does not have at least a quorum of members, cannot meet as a board and cannot take action as a board. These same quorum requirements apply to committees and subcommittees. A board of trustees cannot take a vote without a quorum being present and no action of the board of trustees is valid without such quorum.

7. Executive Session:

The Board of Trustees or a committee may go into “executive session” during which the public may be excluded. All board meetings, except executive sessions, must be open to the public.

There are eight categories that justify moving into an executive session:

- a) matters which will imperil the public safety if disclosed;
- b) any matter which may disclose the identity of a law enforcement agent or informer;
- c) information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
- d) discussions regarding proposed, pending, or current litigation;
- e) collective negotiations pursuant to article fourteen of the civil services law;
- f) the medical, financial, credit, or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;
- g) the preparation, grading, or administration of a corporation; or
- h) the proposed acquisition, sale, or lease of real property or proposed acquisition of securities or sale or exchange of securities held by such a public body, but only when publicity would substantially affect the value thereof.

After the board meeting has officially started with the public, someone on the board shall make a motion in public to begin an executive session. This motion to move into executive session must indicate one of the eight categories above is to be discussed. The motion must be carried by a majority of the whole board.

Board members are the only people who have the right to attend the executive session, but the board can also authorize any non-board member to attend the executive session if it is necessary for the topic to be discussed. Opening the executive session to certain non-board members does not stop the board from closing it to others.

The board and its committees may vote during an executive session except they cannot vote to appropriate public monies. OML-AO-3474. However, if the Board takes an action during an executive session, minutes reflective of the action, the date and the vote must generally be recorded in minutes. OML § 106(2). Minutes of executive sessions do not need to include information that may be withheld under FOIL.

Boards can only discuss topics that meet executive session criteria and as soon as other topics are raised, the Board must move back into open meeting or cease discussion of the topic.

An executive session is just that—a “session” or part of a larger, public meeting. An executive session cannot happen without noticing the meeting at which the session is scheduled to take place.

The proper construction of a motion for an executive session to discuss personnel issues pursuant to § 105(f) is, “I move to enter into an executive session to discuss the employment history of a particular person.” OML-AO-4067. The person whose employment history is being discussed need not be identified in the motion.

8. Participation by Board Members

The OML requires that board members be present when the board is convened; alternately the OML allows board members to participate by video-conference technology (including Skype). If a member is present through video-conferencing, both sides must be able to see each other and the remote location must be subject to the same notice procedures and access requirements as the main meeting site. The reasons that video-conference is allowed is that all voting members of the board and their surroundings need to be visible to the members of the public who wish to observe the deliberative process. Board members cannot teleconference in and take part of a board meeting whether it is for the purpose of achieving a quorum or to act as a voting member.

There is no requirement in the OML that board members be present in order to discuss school business when the board is meeting. However, as above, such board member cannot vote or be counted as present for purposes of reaching a quorum. However, it is perfectly legitimate for a board to query such board member as to her opinion and how she would vote if present.

The law is set out in the Public Officers Law, at Article 7. Section 103 states the requirements of Open Meetings and Executive Sessions:

§103. Open meetings and executive sessions.

(a) Every meeting of a public body shall be open to the general public, except that an executive session of such body may be called and business transacted thereat in accordance with section one hundred five of this article.

(b) Public bodies shall make or cause to be made all reasonable efforts to ensure that meetings are held in facilities that permit barrier-free physical access to the physically handicapped, as defined in subdivision five of section fifty of the public buildings law.

(c) A public body that uses videoconferencing to conduct its meetings shall provide an opportunity for the public to attend, listen and observe at any site at which a member participates.

(d) Public bodies shall make or cause to be made all reasonable efforts to ensure that meetings are held in an appropriate facility which can adequately accommodate members of the public who wish to attend such meetings.

1. Any meeting of a public body that is open to the public shall be open to being photographed, broadcast, webcast, or otherwise recorded and/or transmitted by audio or video means. As used herein the term “broadcast” shall also include the transmission of signals by cable.

2. A public body may adopt rules, consistent with recommendations from the committee on open government, reasonably governing the location of equipment and personnel used to photograph, broadcast, webcast, or otherwise record a meeting so as to conduct its proceedings in an orderly manner. Such rules shall be conspicuously posted during meetings and written copies shall be provided upon request to those in attendance.

(e) Agency records available to the public pursuant to article six of this chapter, as well as any proposed resolution, law, rule, regulation, policy or any amendment thereto, that is scheduled to be the subject of discussion by a public body during an open meeting shall be made available, upon request therefor, to the extent practicable as determined by the agency or the department, prior to or at the meeting during which the records will be discussed. Copies of such records may be made available for a reasonable fee, determined in the same manner as provided therefor in article six of this chapter. If the agency in which a public body functions maintains a regularly and routinely updated website and utilizes a high speed internet connection, such records shall be posted on the website to the extent practicable as determined by the agency or the department, prior to the meeting. An agency may, but shall not be required to, expend additional moneys to implement the provisions of this subdivision.

(f) Open meetings of an agency or authority shall be, to the extent practicable and within available funds, broadcast to the public and maintained as records of the agency or authority. If the agency or authority maintains a website and utilizes a high speed internet connection, such open meeting shall be, to the extent practicable and within available funds, streamed on such website in real-time, and posted on such website within and for a reasonable time after the meeting. For the purposes of this subdivision, the term “agency” shall mean only a state department, board, bureau, division, council or office and any public corporation the majority of whose members are appointed by the governor. For purposes of this subdivision, the term “authority” shall mean a public authority or public benefit corporation created by or existing under any state law, at least one of whose members is appointed by the governor (including any subsidiaries of such public authority or public benefit corporation), other than an interstate or international authority or public benefit corporation.

The OML was created on a presumption of public access that the public deserves, the right to know in advance about meetings of public bodies and then to observe the meetings and deliberations. This means ensuring that all board of trustee meetings are open to the public, with limited exceptions, and providing access to decisions made at these meetings. OML applies explicitly to charter schools under the Charter Schools Act of 1998 (the “Act”) and it is critically important that charter schools abide by these rules. Requiring transparency for charter schools is consistent with charter school’s status as “independent and autonomous public schools.”

ADOPTED: 8/6/19